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No.

Supreme Court, U.S.
FILED
MAY 29 1987
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

1987 TERM

DeWEESE NELSON REALTY, INC. ..... Appellant

v.

EQUITY SERVICES CO. &
BEEMAN INVESTMENT CO. ..... Appellees

JURISDICTIONAL STATEMENT

WILLIAM P. FEATHERSTON, JR.
105 North State Street
Jackson, Mississippi 39201
(601) 353-2725
Attorney for Appellant

QUESTION PRESENTED

Whether the Mississippi Tax Sale Statute, specifically, Mississippi Code §27-41-55 is violative of the Due Process Clause of the Fourteenth Amendment of the United States Constitution because that statute only provides for notice by posting and publication to an owner of property of a pending tax sale.

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JURISDICTION AND OPINIONS BELOW

The opinion of the Mississippi Supreme Court from which Deweese Nelson Realty, Inc. appeals appears in the appendix hereto, pp. 20-36, infra, and is not yet reported.

The final decree of confirmation of title which confirmed two tax deeds in favor of Appellee Beeman Investment Company was entered on August 2, 1984. Thereafter, Appellant perfected an appeal to the Mississippi Supreme Court, which affirmed the trial court's decree. Appellant filed a Petition for Rehearing before the Mississippi Supreme Court on October 29, 1986, which was denied on February 25, 1987.

Appellant timely filed an Amended Notice of Appeal to the United States Supreme Court with the clerk of the Mississippi Supreme Court on April 21, 1987.

This appeal is being docketed in this Court within ninety (90) days from the denial of Appellant's Petition for Rehearing by the Mississippi Supreme Court. The jurisdiction of this Court is invoked under 28 U.S.C. §1257(2); §2101(c); §2104.

UNITED STATES CONSTITUTIONAL PROVISION INVOLVED

Fourteenth Amendment: (Due Process) §1:

> . . . No state shall abridge the privileges or immunities of citizens of the Unites States; nor shall any state deprive any person of life, liberty, or property, without due process of law; . . .

APPLICABLE STATUTES

The most germane statutory provisions applicable to this appeal and contained in the Mississippi Tax Sale Statutes are cited below in pertinent part:

Mississippi Code §27-41-55:

After the fifteenth day of February and after the fifteenth day of August in each year hereafter, the tax collector shall advertise all lands in his county on which all the taxes due and in arrears have not been paid, as provided by law, as well as all land which is liable to sale for the other taxes which have matured, as required by law, for sale at the door of the courthouse of his county, or any place within the courthouse that the tax collector deems suitable to hold such sale, provided that the place of such sale shall be designated by the tax collector in the advertisement of the notice of tax sale, on the first Monday of April and the third Monday of September following, as the case may be. Such advertisement shall be inserted for three (3) weeks in some newspaper published in the county, if there be one, but in counties having two (2) court districts the lands shall be advertised and sold in the district in which such lands are situated and put up at the courthouse door thereof, and shall contain a list of the lands to be sold in numerical order as they are contained in the assessment roll, in substance as follows:

Name of/ Division of/ Section
Owner/ Section/

Town-/ Range/ State/ County
ship/ Tax/ Tax

Total Tax

or by such other description as it may be assessed. Land in cities and towns shall be described in the advertisement as it is described on the assessment roll.

Mississippi Code §21-33-63 makes the method for sale of real estate for taxes by the state and county applicable to municipalities.

> Sales for the nonpayment of municipal taxes, both ad valorem and for special improvements, shall be made by the tax collector at such place, within the corporate limits, as the governing authorities may direct. The sale of real estate for ad valorem taxes and special improvement assessments and sale of personal property shall be made upon the same notice, at the same time, and in the same manner as provided by law for sales of like property for unpaid state and county taxes.
>
> The lists of lands sold for taxes by the municipality shall be made as required to be made by the state and county collector, and shall be

filed with the municipal clerk within twenty days after the tax sale, and shall there remain, subject to redemption for the same length of time and in the same manner as prescribed for the redemption of lands sold for state and county taxes, with the same saving to infants and persons of unsound mind. Said lists shall have the same force and effect, and confer the same right and entitle the purchasers to the same remedies, as lists made for delinquent taxes by the state and county tax collector. Such title shall be subservient, however, to a title acquired under a sale for state and county taxes.

One copy of the list of land so sold shall be filed within thirty days of such sale with the chancery clerk of the county in which said municipality is located, and the chancery clerk shall file and index said list among the land records of his county, as other tax sales are listed. However, the failure of the clerk so to file such list as herein prescribed shall not affect the validity of such tax sale.

STATEMENT OF THE CASE

Deweese Nelson Realty, Inc. is a

small family corporation organized in the State of Mississippi for the purpose of holding and managing real estate.

On May 30, 1978, Deweese Nelson Realty, Inc. (hereinafter Deweese) purchased an undeveloped residential lot in a subdivision in Jackson, Mississippi. Deweese paid a cash downpayment and gave a mortgage to the seller to secure the balance of the purchase price in the amount of $19,525.

The 1978 City and County ad valorem taxes on the subject property were paid on a pro-rata basis by the seller and Deweese.

Deweese failed to pay the city and county ad valorem taxes on the property for the year 1979. As a result the property was sold by the city and county to Equity Services Company (hereinafter Equity) at a city tax sale on

April 7, 1980 and at a county tax sale on September 15, 1980.

Mississippi law does not require the city or county to send personal notice to the owner of the property prior to a tax sale and Deweese did not receive any notice. Mississippi law provides for only constructive notice of a tax sale to owners by posting at the courthouse and publication in a newspaper.[1]

Mississippi law does provide for personal notice to the owner of the right to redeem the property within the two year redemption period.[2]

The property was not redeemed within the 2 year redemption period and

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[1] Miss.Code §27-41-55

[2] Miss. Code §§ 27-43-1 and 27-43-3 The statute requires that the notice be served and mailed within 90 days and not less than 60 days prior to the expiration of the time of redemption.

city and county tax deeds were issued to Equity. Equity quit-claimed its interest in the subject property to Beeman Investment Company (hereinafter Beeman).

Deweese filed suit to set aside the tax deeds on the grounds that it had not received adequate prior notice of the tax sale; that it had not received the city redemption notice; and, that having received the county redemption notice prior to the expiration date, attempted to pay the taxes due but mistakenly paid only the taxes due for the current year and that, therefore, it was entitled to equitable redemption.

FEDERAL DUE PROCESS RAISED

The Appellant raised the United States Constitutional Due Process question presented by this appeal before the trial court.

The trial court rejected Deweese's constitutional arguments and confirmed the tax deeds in favor of Beeman. Appellant again raised the constitutional question of the lack of due process notice prior to the tax sale before the Mississippi Supreme Court and cited the cases of Mennonite Board of Missions vs. Adams [3] and Mullane vs. Central Hanover Bank & Trust Co.[4].

The Mississippi Supreme Court in an opinion decided on October 1, 1986, held that Deweese was not deprived of its property interests without due process of law and that it was unnecessary to address the merits of its constitutional issue. The basis of the court's holding was that the tax sale

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[3] (1983) 462 U.S. 791, 103 S.Ct. 2706, 77 L.Ed.2d 180

[4] (1950) 339 U.S. 306, 314, 70 S.Ct. 652, 94 L.Ed.2d 865

statute [5] and the redemption notice statute[6] should be construed together.

The Mississippi Supreme Court further stated in its opinion that, "in the interest of refining our law, however, this Court suggests the Legislature consider the statutory procedure for notice of tax sales in light of developing United States Constitutional Law on Due Process. In this case it would be helpful for the Legislature to be apprised of Mennonite Board of Missions vs. Adams, 462 U.S. 791, 103 S.Ct. 2706, 77 L.Ed.2d 180 (1983).[7]

THE QUESTION PRESENTED IS SUBSTANTIAL

This case involves an interpretation of adequate notice under Due

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[5] Miss. Code §21-41-55
[6] Miss. Code §27-43-3
[7] Deweese Nelson Realty, Inc. vs. Equity Services Company and Beeman Investment Co., __ So.2d ____ (1986).

Process in a tax sale situation. Appellant has asserted that the Mennonite guidelines as applied to this case would render the Mississippi Tax Sale Statute unconstitutional.

Under Mississippi law notice to an owner of a tax sale is accomplished by posting at the courthouse for publication in a newspaper. This Court in Mennonite held that the Indiana Tax Sale Statute which provided for the same method of notice to a mortgagee was a violation of the Due Process Clause of the Fourteenth Amendment. This Court in addressing the issue of the notice of the right to redeem the property, held that the failure to give adequate notice of the tax sale proceeding deprived the mortgagee of due process of law and that, therefore, there was no need to reach the question of the right to notice of

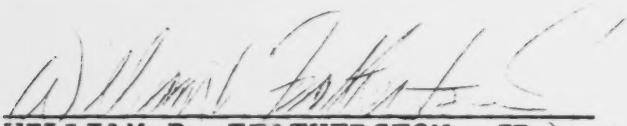
redemption before the County Auditor executes and delivers a deed to the tax-sale purchaser.

This appeal falls within the purview of the court's ruling in Mennonite. In fact, it is submitted that the defective notice in this case is even more egregious than the deficiency found in Mennonite. Mennonite involved the adequacy of notice of a tax sale by posting and publication to a mortgagee. The owner was statutorily entitled to notice of a tax sale by certified mail. Whereas in this case, the owner is only entitled to notice of the tax sale by posting and publication.

The Mississippi courts have failed to follow the holding of this Court in Mennonite and this case presents the opportunity to expound on its holding in Mennonite and its application to

the Mississippi Tax Sale Statute. For these foregoing reasons, this Court should note probable jurisdiction of this appeal.

Respectfully submitted,



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IN THE CHANCERY COURT OF THE FIRST JUDICIAL DISTRICT OF HINDS COUNTY, MISSISSIPPI

DEWEESE NELSON REALTY, INC. PLAINTIFF

VS. NO. 123,589

EQUITY SERVICES COMPANY AND BEEMAN INVESTMENT COMPANY DEFENDANTS

FINAL DECREE OF CONFIRMATION OF TITLE

This cause having come on for hearing in open Court upon the amended complaint of Deweese Nelson Realty, Inc. against the defendants, Equity Services Company and Beeman Investment Company, and upon the counterclaim of Beeman Investment Company to confirm tax titles and quiet title in the real estate described herein, the parties being present in Court in person and through counsel, they having announced ready for trial, whereupon evidence and testimony, both oral and documentary, were presented, and the Court

having heard and considered same, along with the proposed findings of fact and conclusions of law of the parties, and being fully advised in the premises, having rendered its written Opinion dated July 25, 1984, which Opinion of the Court is incorporated herein by reference as the Court's findings of fact and conclusions of law, the Court is of the opinion that the amended complaint of the plaintiff should be dismissed and that the counterclaim of Beeman Investment Company should be granted as set forth in this Final Decree. Further, on the application of Beeman Investment Company for a default judgment against all persons having or claiming any legal or equitable interest in the property described in this final decree, and said defendants to the counterclaim of Beeman Investment

Company having been summoned by publication as required by law, in the manner and for the time required by law, and said defendants having taken no proceeding since the default was entered, this Court is of the opinion that Beeman Investment Company is entitled to a judgment against all persons claiming any legal or equitable interest in the property as prayed for in the counterclaim.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that:

1. Beeman Investment Company is the owner in fee simple of the following described land and property situated in the City of Jackson, First Judicial District of Hinds County, Mississippi, described as follows, to-wit:

> Lot 18, Petit Bois, Part 1, a subdivision according to a map or plat thereof which is on

> file and of record in the office of the Chancery Clerk of the First Judicial District of Hinds County, at Jackson, Mississippi.

and that the cross-defendants, (1) Deweese Nelson Realty, Inc. and (2) all persons having or claiming any legal or equitable interest in the hereinafter described land and property sold for (a) unpaid county and state ad valorem taxes on September 15, 1980, by the Tax Collector of Hinds County, Mississippi, for the unpaid county and state ad valorem taxes due thereon for the year 1979, and (b) sold for unpaid city ad valorem taxes on April 7, 1980, by the Tax Collector of the City of Jackson, Mississippi, for the unpaid city ad valorem taxes due thereon for the year 1979; have no right, title, or interest either legal or equitable therein, and the title of said Beeman

Investment Company is hereby confirmed against all of said parties.

2. The amended complaint of Deweese Nelson Realty, Inc. should be and the same hereby is dismissed with prejudice.

3. The Clerk of this Court should be and he hereby is directed to index and record this Final Decree in the Deed Records of the First Judicial District of Hinds County, Mississippi.

4. All costs herein be, and the same hereby are, assessed against Deweese Nelson Realty, Inc.

For all of which let execution issue.

SO ORDERED, ADJUDGED AND DECREED, this the 2nd day of August, 1984.

/s/JOE G. MOSS
Chancellor

APPROVED AS TO FORM:
DEWEESE NELSON REALTY, INC.

By:/s/William P. Featherston, Jr.
William P. Featherston, Jr.
Its Attorney

EQUITY SERVICES COMPANY AND
BEEMAN INVESTMENT COMPANY

By:/s/E. Stephen Williams
E. Stephen Williams
Their Attorney

IN THE SUPREME COURT OF MISSISSIPPI
NO. 55,990

DeWEESE NELSON REALTY, INC.

V.

EQUITY SERVICES CO. & BEEMAN INVESTMENT CO.

BEFORE ROY NOBLE LEE, P. J., DAN LEE AND PRATHER, JJ. PRATHER, J., FOR THE COURT:

This appeal involves a suit by DeWeese Nelson Realty, Inc. to quiet title and set aside certain tax deeds for an undeveloped tract of property in Jackson, Mississippi. From an adverse ruling in the Chancery Court of Hinds County, DeWeese Nelson Realty, Inc. appeals assigning as error:

(1) The taxing authority of the City of Jackson did not comply with their duty to conduct a diligent search and inquiry as required by Miss. Code Ann. §27-43-3 (Supp.1985) to ascertain the address of appellant

for the purpose of informing appellant of its right to redeem the subject property from the City of Jackson tax sale, thereby rendering the city tax sale void.

(2) The chancellor was manifestly in error and abused his discretion by finding that appellant did not make a reasonable effort to redeem the subject property from the county tax sale and by not voiding the county tax deed in allowing appellant to redeem its property.

(3) The chancellor erred by not finding the Mississippi statutes pertaining to sales of land for taxes unconstitutional for allowing a property owner to be deprived of his property without due process of law.

We affirm without reaching the merits of appellant's constitutional claim.

I.

DeWitt "Buddy" DeWeese was President of DeWeese Nelson Realty, Inc., a Mississippi corporation. DeWeese Nelson Realty, Inc. (appellant) acquired fee simple title in 1978 to Lot 18, Petit Bois, Part 1, a portion of an undeveloped subdivision in Jackson, Mississippi.

City and county ad valorem taxes on the property for 1979 went unpaid. The property was sold at a city tax sale on April 7, 1980 and at a county tax sale September 15, 1980. Equity Services Company (Equity) was the buyer at both sales.

The property was never properly redeemed and both tax sales matured in 1982, with Equity holding title. The property was subsequently conveyed from Equity to Beeman Investment Company (Beeman).

In December of 1983, appellant brought suit to quiet title to the property and to have the tax deeds set aside. Having no success in the Chancery Court of Hinds County, appellant perfects this appeal.

II.

Did the taxing authority of the City of Jackson comply with their duty to conduct a diligent search and inquiry as required by Miss. Code Ann. §27-43-3 (Supp.1985)?

When property is sold for unpaid county or municipal ad valorem taxes, the property owner must be given notice of his right to redeem the property within 180 days of, but no less than 60 days prior to, the expiration of the redemption period. Miss. Code Ann. §27-43-1 and §27-43-4 (Supp. 1985).

Both chancery clerks and municipal clerks are required to provide notice in accordance with Miss. Code Ann. §27-43-3 (Supp.1985) which states in part:

> The clerk shall issue the notice to the sheriff of the county of the reputed owner's residence, if he be a resident of the state of Mississippi, and the sheriff shall be required to serve personal notice as summons issued from the courts are served, and make his return to the chancery clerk issuing same. The clerk shall also mail a copy of same to the reputed owner at his usual street address, if same can be ascertained after diligent search and inquiry, or to his post-office address if only that can be ascertained, and he shall note such action on the tax sales record. The clerk shall also be required to publish the name and address of the reputed owner of the property and the legal description of such property in a public newspaper of the county in which the land is located, or if no newspaper is published as such, then in a newspaper having a general circulation in such county. Such publication shall be made at least forty- five (45) days prior to the expiration of the redemption period.

. . .

Notice by mail shall be by registered or certified mail. In the event the notice by mail is returned undelivered and the personal notice as hereinabove required to be served by the sheriff is returned not found, then the clerk shall make further search and inquiry to ascertain the reputed owner's street and post-office address. If the reputed owner's street or post- office address is ascertained after the additional search and inquiry, the clerk shall again issue notice as hereinabove set out. If personal notice is again issued and it is again returned not found and if notice by mail is again returned undelivered, then the clerk shall file an affidavit to that effect and shall specify therein the acts of search and inquiry made by him in an effort to ascertain the reputed owner's street and post- office address and said affidavit shall be retained as a permanent record in the office of the clerk and such action shall be noted on the tax sales record. If the clerk is still unable to ascertain the reputed owner's street or post- office address after making search and inquiry for the second time, then it shall not be necessary to issue any additional notice but the clerk shall file an affidavit specifying therein the acts of search and inquiry

> made by him in an effort to ascertain the reputed owner's street and post- office address and said affidavit shall be retained as a permanent record in the office of the clerk and such action shall be noted on the tax sale record.

Section 27-43-3 requires redemption notice to be given by personal service, by mail, and by publication in an appropriate newspaper.

The present record reflects that the municipal clerk properly published notice in the Jackson Daily News and that personal service of the redemption notice was performed by Bart Usry, a Hinds County Deputy Sheriff. Appellant's complaint concerns the address to which its redemption notice was mailed.

Appellant's registered agent for service of process was Harriette Lee DeWeese and the mailing address of its registered agent was 507 Holland

Avenue, Philadelphia, Mississippi. Appellant contends the name and address of its registered agent was on file and of record with the office of the Secretary of State.

Appellant's municipal redemption notice letter was mailed to 146 Chippewa Circle, Jackson, Mississippi, the residence of DeWitt DeWeese's former wife. The letter was addressed to DeWeese Nelson, Inc., c/o Buddy DeWeese. Mr. DeWeese testified he had not resided at that address for over 10 years.

In contrast, the Hinds County redemption notice was mailed to the Philadelphia, Mississippi address and was received by the appellant's registered agent. Because the chancery clerk had access to the appellant's corporate address, it is apparent the municipal clerk also had access to

that address. This Court held in Kron v. VanCleave, 339 So.2d 559 (Miss.1976) that landowners have the right to presume information available to one taxing authority may be ascertained by other taxing authorities upon reasonably diligent search and inquiry.

Appellant claims the municipal clerk failed to conduct a "diligent search and inquiry" because the clerk did not mail appellant's notice to the correct corporate address.

Mrs. Bobbie Rester, Assistant City Clerk for the City of Jackson, testified concerning the method employed by the municipal clerk to ascertain mailing addresses:

> Q. How do you ascertain a landowner's or property owner's address to send them the notice?
>
> A. The first thing we do in order to get the list that has not been redeemed is to go

> to the tax office and search from the tax assessor's department to get the property address, then from the downstairs department, the tax collector's office to get the mailing address. That's what you use for the first notice. Now, if they don't have it, then you use telephone directories. You can use county tax collector's addresses, or you hunt in the city directory or call somebody that might know somebody that might know who they are. You just make every effort to try to get an address.
>
> Q. What about for a corporation?
>
> A. Secretary of State's office.

The record does not reflect the origin of the Jackson, Mississippi address used by the municipal clerk. Apparently that address was located before the clerk consulted the county tax collector or the Secretary of State. Notice was then mailed to the Jackson address, Mrs. DeWeese took delivery of it, and the delivery receipt was mailed back to the

municipal clerk. There was no indication to the municipal clerk of any problems concerning the delivery of the notice. Further solidifying the clerk's belief that notice had been properly delivered, the notice served by the sheriff's office bore the same address as the mailed notice.

There is evidence in the present record indicating that DeWitt DeWeese actually received the mailed notice. Mrs. DeWeese, who took delivery of the mailed notice, testified it was her practice, whenever her former husband received mail at her address, to send the mail to Mr. DeWeese via one of their two sons.

Notwithstanding that evidence, the Court looks to Miss. Code Ann. §27-43-3 (Supp.1985) which states in part, "The failure of the landowner to actually receive the notice herein

required shall not render the title void, provided the clerk and sheriff have complied with the duties herein prescribed for them." See, Hart v. Catoe, 390 So.2d 1001 (Miss.1980).

In the present case, the Chancery Court held the municipal clerk was diligent and evidence in record supports that finding by the chancellor. Both the mailed notice and the personal notice bore the Jackson, Mississippi address and neither was returned undelivered. Absent some indication that there was a problem involved, there was nothing to indicate to the clerk that notice had not been delivered. Therefore, the Court holds the municipal clerk was diligent.

II.

Did the chancellor err in finding that appellant made no reasonable effort to redeem the subject property?

In an effort to avoid the county tax sale, appellant has invoked the doctrine of equitable redemption as established by this Court in Osborne v. Harrison, 447 So.2d 122 (Miss.1984) and Levy v. McCay, 445 So.2d 546 (Miss.1984). In Osborne and Levy, tax sales were set aside based on findings that property owners had made "reasonable efforts" to redeem their property before the tax deeds matured. To the contrary, the chancellor in the instant case found that the appellant did not make a reasonable effort to redeem its property.

April 16, 1982, appellant received the county redemption notice stating the property had been sold for 1979 taxes. On May 13, 1982, DeWitt DeWeese tendered a check to the Hinds County Tax Collector for $46.43, the amount of the 1981 county ad valorem

taxes. Mr. DeWeese claims he was attempting to pay all the taxes due on the property. His receipt, however, clearly indicated the amount paid was for taxes due in 1981. Furthermore, Mrs. Francis Doris, the employee who signed DeWeese's receipt, testified that if any mention had been made of a tax sale or a redemption, she would have directed the person to the chancery clerk's office where the tax sale redemptions were handled.

On September 14, 1982, the day before the expiration of the redemption period for the county sale, DeWitt DeWeese visited Hinds County Chancery Clerk Pete McGee, but DeWeese did not redeem the property. Afterward, DeWeese visited B. B. McClendon who represented Equity Services Company, purchasers at the tax sale. At trial, Mr. McClendon testified that

DeWeese told him that Nelson DeWeese Realty would not redeem the property. DeWitt DeWeese denied making any such statement.

Based on the afore-mentioned facts, the chancellor found that "DeWeese did not redeem or make a reasonable effort to redeem either the city or county tax sales made for 1979 ad valorem taxes." Findings of fact made by a chancellor may not be set aside or disturbed on appeal unless manifestly wrong. Smith v. Todd, 464 So.2d 1155, 1157 (Miss.1985); Peoples Bank & Trust Co. v. L & T Developers, 434 So.2d 699, 704 (Miss.1983).

This Court finds the chancellor was not manifestly wrong.

III.

Construing Miss. Code Ann. §27-41-55 (Supp.1985) and Miss. Code Ann. §27-43-3 (Supp.1985) together,

notice must be given by personal service, mail, and publication before a landowner's rights are finally extinguished by the maturing of a tax deed. The evidence in the present record indicates appellant actually received notice by mail and by personal service before it was finally deprived of its property interest.

On those facts, this Court cannot find that appellant was deprived of its property interests without due process of law. Therefore, the Court finds it unnecessary to address the merits of appellants constitutional issue. Marble v. Marble, 457 So.2d 1342, 1343 (Miss.1984); Tribou v. Gunn, 410 So.2d 378, 380 (Miss.1982).

In the interest of refining our law, however, this Court suggests the legislature consider the statutory procedure for notice of tax sales in

light of developing United States Constitutional law on due process. In this case it would be helpful for the legislature to be apprised of Mennonite Board of Missions v. Adams, 462 U.S. 791, 103 S.Ct. 2706, 77 L.Ed.2d 180 (1983).

As this Court has stated before, "[T]he courts interpret statutes and decide the law. The enactment, modification, amendment or repeal of statutes are for the legislature." Contreras v. State, 445 So.2d 543, 545 (Miss.1984).

AFFIRMED.

WALKER, C. J., ROY NOBLE LEE AND HAWKINS, P. JJ., DAN LEE, ROBERTSON, SULLIVAN, ANDERSON AND GRIFFIN, JJ., CONCUR.

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

DEWEESE NELSON REALTY, INC. — APPELLANT

VS.

EQUITY SERVICES COMPANY and BEEMAN INVESTMENT COMPANY — APPELLEES

AMENDED NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

NOTICE IS HEREBY GIVEN that Deweese Nelson Realty, Inc., the Appellant above named, hereby appeals to the Supreme Court of the United States from the denial of Appellant's Petition for Rehearing by this Court on February 25, 1987, which said denial of rehearing affirms the decision of this Court rendered on October 1, 1986, affirming the decision of the Chancery Court of the First Judicial District of Hinds County.

This appeal is taken pursuant to

28 U.S.C. §1257(2).

This Court ruled that the notice provisions of the Mississippi tax Sales Statutes were not violative of the due process clause of the United States Constitution. Appellant has at all times claimed that the foregoing statutes are unconstitutional as violative of the notice required under due process, as applied to Appellant. The final judgment from which this appeal is taken is in favor of the validity of said statutes.

THIS the 21st day of April, 1987.

/s/William P. Featherston,Jr.
William P. Featherston,Jr.

WILLIAM P. FEATHERSTON, JR.
Attorney at Law
105 North State Street
Jackson, Mississippi 39201
(601) 353-2725

CERTIFICATE

I, WILLIAM P. FEATHERSTON, JR., do hereby certify that I have this day mailed by United States Mail, postage

prepaid, a true and correct copy of the above and foregoing Amended Notice of Appeal to E. Steven Williams, Esquire, 1440 Deposit Guaranty Plaza, Jackson, Mississippi 39201, Attorney for Appellees.

SO CERTIFIED, this the 21st day of April, 1987.

/s/William P. Featherston,Jr.
William P. Featherston,Jr.

VERIFIED PROOF OF SERVICE OF FILING
A PETITION FOR
JURISDICTIONAL STATEMENT

I, WILLIAM P. FEATHERSTON, JR., being first duly sworn upon my oath, allege and say:

1. That I am a member of the Bar of the United States Supreme Court.

2. That on the 20th day of May, 1987, I deposited at the United States Post Office, Jackson, Mississippi, first class postage prepaid and properly addressed to the Clerk of this Court, forty (40) copies of Appellant's Petition for Jurisdictional Statement within the time allowed for filing.

3. That, in addition, I hand delivered three (3) copies of Appellant's Petition for Jurisdictional Statement to E. Stephen Williams, Counsel for the Appellees, at his address, 1440 Deposit Guaranty Plaza, Jackson, Mississippi 39201.

4. That, in addition, I hand delivered three (3) copies of Appellant's Petition for Jurisdictional Statement to Edwin Lloyd Pittman, Attorney General for the State of Mississippi, at his address, Carroll Gartin Justice Building, Jackson, Mississippi.

WILLIAM P. FEATHERSTON, JR.

STATE OF MISSISSIPPI

COUNTY OF HINDS

Subscribed and sworn to before me, this the 20th day of May, 1987.

Peggy C Bickil
NOTARY PUBLIC

My Commission Expires:

Aug. 31, 1987